

AMENDED IN SENATE JULY 3, 1996

AMENDED IN SENATE JUNE 29, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 1953

Introduced by Assembly Member Baldwin

February 24, 1995

An act to add Section ~~53077~~ 53077.5 to the Government Code, ~~relating to the use of local public property.~~ and to amend Section 5353 of the Public Utilities Code, relating to nonprofit youth-serving organizations, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1953, as amended, Baldwin. ~~Local public entities~~ Nonprofit youth-serving organizations: use of public land, property, and facilities: carrier exemption.

(1) Existing law provides for the use of local public land and property, as specified.

This bill would ~~provide that no local~~ prohibit any city, county, or state public entity, as defined, ~~shall adopt from adopting or enforce enforcing any law, ordinance, regulation, or rule other law,~~ denying certain nonprofit tax exempt youth organizations serving youth 18 years of age or younger use of, or access to, any public land, property, or facility ~~except on the same terms provided to other persons or organizations seeking similar use of public property, including any ordinance, regulation, or other law that effectively denies the~~

use of, or access to, any public land, property, or facility by charging a fee, rental, or other charge for the use of, or access to, any public beach or recreation area that is in excess of the fee, rental, or charge for the same number of individuals seeking similar use of that public property. The bill would also ~~specify that specifically allow those nonprofit tax-exempt youth organizations may to~~ commence a civil action to obtain appropriate injunctive ~~and or~~ declaratory relief to enforce ~~this that~~ provision, as determined by the court; ~~and upon motion, a court may award attorney's fees and costs of litigation to a prevailing plaintiff pursuant to this provision.~~

(2) Under existing law, the Passenger Charter-Party Carriers' Act, the furnishing of specified passenger transportation services by a charter-party carrier of passengers is subject to the jurisdiction and control of the Public Utilities Commission and is required to be furnished pursuant to a certificate of public convenience and necessity or a permit issued by the commission.

This bill would exempt from the act the transportation services provided by a nonprofit tax-exempt organization or organization operating an organized camp, as defined, that serves youth 18 years of age or younger in connection with youth activities sponsored by the organization. The bill would make technical and clarifying changes in related provisions of the act.

(4) The bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section ~~53077~~ 53077.5 is added to the
 2 Government Code, to read:
 3 ~~53077.—~~
 4 53077.5. (a) No ~~local~~ city, county, or state public
 5 entity, ~~as defined in Section 53040,~~ shall adopt or enforce
 6 any ~~law, ordinance, or rule~~ ordinance, regulation, or
 7 other law denying the use of or access to any public land,
 8 property, or facility ~~to any nonprofit organization serving~~

1 ~~youth~~, including any ordinance, regulation, or other law
2 that effectively denies the use of, or access to, any public
3 land, property, or facility by charging a fee, rental, or
4 other charge for the use of, or access to, any public beach
5 or recreation area that is in excess of the fee, rental, or
6 charge for the same number of individuals seeking similar
7 use of that public property, to any nonprofit organization
8 which qualifies for tax exemption pursuant to Section
9 501(c)(3) of the Internal Revenue Code, and serves
10 youth 18 years of age or younger, including the Boy
11 Scouts, the Girl Scouts, ~~or the Campfire Girls~~ the
12 Campfire Boys and Campfire Girls, the YMCA, Boys' and
13 Girls' Clubs, the 4H Club, or any organization that
14 operates an organized camp, as defined in Section 18897
15 of the Health and Safety Code, except on the same terms
16 provided as to other persons or organizations seeking
17 similar use of public property.

18 (b) Any nonprofit organization serving youth which
19 qualifies for tax exemption pursuant to Section 501(c)(3)
20 of the Internal Revenue Code youth may commence a
21 civil action to obtain appropriate injunctive and
22 declaratory relief to enforce this section, as determined
23 by the court. ~~Upon motion, a court may award attorney's~~
24 ~~fees and costs of litigation to a prevailing plaintiff~~
25 ~~pursuant to this section.~~

26 SEC. 2. Section 5353 of the Public Utilities Code is
27 amended to read:

28 5353. This chapter does not apply to any of the
29 following:

30 (a) Transportation service rendered wholly within the
31 corporate limits of a single city or city and county and
32 licensed or regulated by ordinance.

33 (b) Transportation of school pupils conducted by or
34 under contract with the governing board of any school
35 district entered into pursuant to the Education Code.

36 (c) Common carrier transportation services between
37 fixed termini or over a regular route which are subject to
38 authorization pursuant to Article 2 (commencing with
39 Section 1031) of Chapter 5 of Part 1 of Division 1.

1 (d) Transportation services occasionally afforded ~~for~~
2 to farm employees moving to and from farms on which
3 ~~they are~~ employed, when ~~the~~—that transportation is
4 performed by the employer in an owned or leased
5 vehicle, or by a nonprofit agricultural cooperative
6 association organized and acting within the scope of its
7 powers under Chapter 1 (commencing with Section
8 54001) of Division 20 of the Food and Agricultural Code,
9 and without any requirement for the payment of
10 compensation therefor by the employees.

11 (e) Transportation service rendered by a publicly
12 owned transit system.

13 (f) Passenger vehicles carrying passengers on a
14 noncommercial enterprise basis.

15 (g) Taxicab transportation service licensed and
16 regulated by a city or county, by ordinance or resolution,
17 rendered in vehicles designed for carrying not more than
18 eight persons excluding the driver.

19 (h) Transportation of persons between home and
20 work locations or of persons having a common
21 work-related trip purpose in a vehicle having a seating
22 capacity of 15 passengers or less, including the driver,
23 which are used for the purpose of ridesharing, as defined
24 in Section 522 of the Vehicle Code, when the ridesharing
25 is incidental to another purpose of the driver. This
26 exemption also applies to a vehicle having a seating
27 capacity of more than 15 passengers if the driver files with
28 the commission evidence of liability insurance protection
29 in the same amount and in the same manner as required
30 for a passenger stage corporation, and the vehicle
31 undergoes and passes an annual safety inspection by the
32 Department of the California Highway Patrol. The
33 insurance filing shall be accompanied by a one-time filing
34 fee of seventy-five dollars (\$75). This exemption does not
35 apply if the primary purpose for the transportation of
36 those persons is to make a profit. “Profit,” as used in this
37 subdivision, does not include the recovery of the actual
38 costs incurred in owning and operating a vanpool vehicle,
39 as defined in Section 668 of the Vehicle Code.

1 (i) Medical transportation vehicles, including vehicles
2 employed to transport developmentally disabled persons
3 for regional centers established pursuant to Chapter 5
4 (commencing with Section 4620) of Division 4.5 of the
5 Welfare and Institutions Code.

6 (j) Transportation services rendered solely within the
7 Lake Tahoe Basin, comprising that area included within
8 the Tahoe Regional Planning Compact as set forth in
9 Section 66801 of the Government Code, when the
10 operator of the services has obtained any permit required
11 from the Tahoe Basin Transportation Authority or the
12 City of South Lake Tahoe, or both.

13 (k) Subject to Section 34507.6 of the Vehicle Code,
14 transportation service provided by the operator of an
15 automobile rental business in vehicles owned or leased by
16 that operator, without charge other than as may be
17 included in the automobile rental charges, to carry its
18 customers to or from its office or facility where rental
19 vehicles are furnished or returned after the rental period.

20 (l) Subject to Section 34507.6 of the Vehicle Code,
21 transportation service provided by the operator of a
22 hotel, motel, or other place of temporary lodging in
23 vehicles owned or leased by that operator, without charge
24 other than as may be included in the charges for lodging,
25 between the lodging facility and an air, rail, water, or bus
26 passenger terminal or between the lodging facility and
27 any place of entertainment or commercial attraction,
28 including, but not limited to, facilities providing snow
29 skiing. Nothing in this subdivision authorizes the operator
30 of a hotel, motel, or other place of temporary lodging to
31 provide any round-trip sightseeing service without a
32 permit, as required by subdivision (c) of Section 5384.

33 (m) (l) Transportation of hot air balloon ride
34 passengers in a balloon chase vehicle from the balloon
35 landing site back to the original take-off site, provided
36 that the balloon ride was conducted by a balloonist who
37 meets all of the following conditions:

38 (4)

39 (A) Does not fly more than a total of 30 passenger rides
40 for compensation annually.

1 ~~(2)~~
2 (B) Does not provide any preflight ground
3 transportation services in their vehicles.

4 ~~(3)~~
5 (C) In providing return transportation to the launch
6 site from landing does not drive more than 300 miles
7 annually.

8 ~~(4) Files~~

9 (D) Files with the ~~Commission~~—commission an
10 exemption declaration and proof of vehicle insurance, as
11 prescribed by the ~~Commission~~ commission, certifying
12 that the operator qualifies for the exemption and will
13 maintain minimum insurance on each vehicle of one
14 hundred thousand dollars (\$100,000) for injury or death
15 of one person, three hundred thousand dollars (\$300,000)
16 for injury or death of two or more persons and one
17 hundred thousand dollars (\$100,000) for damage to
18 property.

19 ~~Nothing~~

20 (2) *Nothing* in this subdivision authorizes the operator
21 of a commercial balloon operation to provide any
22 round-trip sightseeing service without a permit, as
23 required by subdivision (c) of Section 5384.

24 (n) *Transportation services provided by a nonprofit*
25 *organization which qualifies for tax exemption under*
26 *Section 501(c)(3) of the Internal Revenue Code or an*
27 *organization that operates an organized camp, as defined*
28 *in Section 18897 of the Health and Safety Code, serving*
29 *youth 18 years of age or younger in connection with youth*
30 *activities sponsored by the organization.*

31 SEC. 3. *This act is an urgency statute necessary for the*
32 *immediate preservation of the public peace, health, or*
33 *safety within the meaning of Article IV of the*
34 *Constitution and shall go into immediate effect. The facts*
35 *constituting the necessity are:*

36 *In order to ensure that tax-exempt nonprofit*
37 *organizations and organizations operating organized*
38 *camps serving youth 18 years of age or younger are not*
39 *unfairly denied the use of, or access to, any public land,*
40 *property, or facility by the adoption or enforcement of an*

1 ordinance, regulation, or other law charging a fee, rental,
2 or other cost for the use of, or access to, any public beach
3 or recreational area that is in excess of the fee, rental, or
4 other cost for the same number of individuals seeking
5 similar use of that public property, beginning with the
6 1996 summer season, thereby removing a financial
7 barrier that has prevented many young people from
8 visiting state beaches, it is necessary that this act take
9 effect immediately.

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